

**COMPLAINT
JURY TRIAL DEMANDED**

3. Plaintiff, Philomena Glowka, (hereinafter “Plaintiff”) is a natural person residing at 1922 Appaloosa Road, Warrington PA 18976. Because Plaintiff is allegedly obligated to pay a debt that is the subject of this case was primarily used for family, personal or household purposes, she is a consumer within the meaning of FDCPA, 15 U.S.C. § 1692a(3).

4. Defendant, Simm Associates, Inc. (hereinafter “Simm” or “Defendant”) is, upon information and belief, a professional corporation whose address is listed as 800 Pencader Drive, Newark DE 19702 and, at all times relevant herein and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6), who acted by and through its owners, managers, officers, shareholders, authorized representatives, partners, employees, agents and/or workmen.

5. Defendant, at all times relevant hereto, is considered a person who used an instrumentality of interstate commerce or the mails in a business the principal purpose of which was the collection of debts, who regularly collected or attempted to collect, directly or indirectly, debts owed or due asserted to be owed or due another, and/or who, in the process of collecting its own debts, used a name other than its own which would indicate that a third person was collecting or attempting to collect such debts.

III. FACTUAL ALLEGATIONS

6. On or about November 29, 2015 American Education Services sent Plaintiff a bill for a student loan account (“the Account”), requesting a payment of \$873.02 with a payment due date of December 19, 2015. A true and correct copy of the November 29, 2015 American Education Services letter is attached hereto as Exhibit “A”.

7. On or about December 2, 2015 at 11:00am, Defendant called Plaintiff in regards to the account.

8. During the phone call, Defendant told Plaintiff that in order to prevent her loan from going to collections, she would have to pay \$215.00 by 12 noon.

9. The aforesaid call was the first communication that Plaintiff received from Defendant.

10. At the time of the call, Plaintiff had never received any other calls nor written communications from Defendant.

11. On or about December 27, 2015 Defendant sent a letter to Plaintiff referencing the account. A true and correct copy of the December 27, 2015 letter is attached hereto as Exhibit "B".

12. Defendant violated the FDCPA by making representations that were false, deceptive, material, and misleading in that it:

a.) Stated that a payment was due by 12:00 noon on December 2, 2015, which was contrary to the actual due date of December 19, 2015 set forth in the November 29, 2015 bill.

b.) Mischaracterized Plaintiff's account and threatened her that it was going to be sent to collections when it was already in collections given that Defendant is a debt collector.

c.) Failed to send a written validation notice within five (5) days of the initial communication.

13. Based upon the aforesaid facts, upon information and belief, Defendant failed to adhere to procedures and/or policies which would prevent violations of the FDCPA.

IV. VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
("FDCPA) 15 U.S.C. § 1692, et seq.

14. Plaintiff incorporates her allegations of paragraphs 1 through 13 as though set forth at length herein.

15. Defendant's actions as aforesaid are false, deceptive, material, and misleading to Plaintiff as follows:

- (a) Defendant violated 15 U.S.C. § 1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person;
- (b) Defendant violated 15 U.S.C. § 1692e by making false, deceptive, or misleading representation or means in connection with the debt collection;
- (c) Defendant violated 15 U.S.C. § 1692e(2) by misrepresenting the character, amount or legal status of the alleged debt;
- (d) Defendant violated 15 U.S.C. § 1692e(5) by threatening to take action that cannot legally be taken or that is not intended to be taken;
- (e) Defendant violated 15 U.S.C. § 1692e(10) by making false representations or using deceptive means to collect to collect the alleged debt;
- (f) Defendant violated 15 U.S.C. § 1692f by using unfair and unconscionable means to attempt to collect Plaintiff's alleged debt;
- (g) Defendant violated 15 U.S.C § 1692g by failing to send the Plaintiff a 30-day validation notice within five (5) days of the initial communication

16. As a direct and proximate result of Defendant's illegal collection efforts and communications, Plaintiff has suffered mental anguish, emotional distress, anger, anxiety, and frustration, fear, embarrassment and humiliation.

17. Plaintiff has been seriously damaged by Defendant's violations of the FDCPA and is entitled to actual damages, compensatory damages, costs and attorneys' fees.

18. As a result of the foregoing violations of the FDCPA, Defendant is liable to Plaintiff for actual damages, statutory damages, attorneys' fees and costs in accordance with 15 U.S.C. § 1692k.

IV. CLAIMS FOR RELIEF

19. Plaintiff incorporates her allegations of paragraphs 1 through 18 as though set forth at length herein.

20. The foregoing acts and omissions of Defendant constitute numerous and multiple violations of the FDCPA including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692, et seq.

21. As a result of each of Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorneys' fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Philomena Glowka, prays that judgment be entered against Defendant, Simm Associates, Inc., for the following:

- (1) Actual damages;
- (2) Statutory damages each in the amount of \$1,000.00;
- (3) Reasonable attorneys' fees and costs;
- (4) Declaratory judgment that the Defendant's conduct violated the FDCPA;
- (5) Such other and further relief that the Court deems just and proper.

VI. DEMAND FOR JURY TRIAL

Plaintiff is entitled to and hereby respectfully demand a trial by jury.

Respectfully submitted,



Law Office of Michael P. Forbes, P.C.

By: Michael P. Forbes, Esquire

Attorney for Plaintiff

Attorney I.D. #55767

200 Eagle Road

Suite 50

Wayne, PA 19087

(610) 293-9399

(610)293-9388 (Fax)

michael@mforbeslaw.com

Exhibit A



33300200349201

November 29, 2015

MONTHLY BILL

Name: PHILOMENA L GLOWKA

Account Number: [REDACTED] 0000

Payment Summary	
Last Payment Received	06/25/2015
Amount Past Due	\$579.01
Late Fees Assessed	\$15.00
Current Payment Due	\$279.01
Total Due by 12/19/2015	\$873.02

YOUR LOAN DETAILS

Loan Sequence	Date Disbursed	Loan Program	Original Balance	Current Balance	Interest Rate	Monthly Payment	Past Due	Current Due
*1001	07/26/2007	ALPLN	\$24,043.72	\$33,526.62	5.950%	\$279.01	\$579.01	\$279.01

Total paid since your last statement	\$0.00
Interest Satisfied	\$0.00
Principal Satisfied	\$0.00
Late Fees Paid	\$0.00

As of today, you've paid on your loans	\$1,325.34
Total Interest Satisfied	\$1,028.12
Total Principal Satisfied	\$292.22
Total Late Fees Paid	\$5.00

You may be required to remit your full monthly installment amount, even if your loan(s) are paid ahead, in order to maintain reduced interest rate eligibility under any applicable Repayment Incentive Program offered by your lender(s). Contact us for details.

Make checks payable to American Education Services and include your 10 digit account number.

Customer Statement

Account Number:

Due Date:

Amount Enclosed: Do not write dollar sign in boxes below or on check.

Total Amount Due:

[REDACTED]

12/19/2015

\$ [] [] [] [] [] [] [] [] [] []

\$873.02

#BWNDHKB
 #B713 5355 0811.29L4#
 PHILOMENA L GLOWKA
 1922 APPALOOSA RD
 WARRINGTON PA 18976-1902



AMERICAN EDUCATION SERVICES
 PAYMENT CENTER
 HARRISBURG PA 17130-0001

C., BRLF

Exhibit B

Department # 119823
PO Box 1259
Oaks PA 19456



SIMM ASSOCIATES, INC.

800 PENCADER DRIVE
NEWARK DE 19702
(302) 283-2800 • 866/572-5696

Account # [REDACTED]	Balance: \$34,285.56
Client: NATIONAL COLLEGIATE TRUST - 120 DAY	



3982 - 12



PHILOMENA GLOWKA
1922 APPALOOSA RD
WARRINGTON PA 18976-1902

SIMM ASSOCIATES, INC.
P.O. BOX 7526
NEWARK DE 19714-7526



___ Opt-Out Notice (See back for details)

Detach Upper Portion And Return With Payment

December 27 2015

CLIENT: NATIONAL COLLEGIATE TRUST - 120 DAY
LOAN SERVICER: PHEA
LOAN NUMBER: [REDACTED] PHEA
ORIGINAL LENDER: PNC BANK

CURRENT BALANCE: \$34,285.56
MINIMUM PAYMENT DUE: \$279.01

Dear PHILOMENA GLOWKA,

Your account with the above referenced client is in a delinquent status. They have retained us to review your account and commence collection activity. Our client reserves the right to enforce against you some or all of the provisions contained in your credit agreement in accordance with the state and federal laws that apply to your student loan.

Act now to avoid the negative consequences of continued non-payment. Payment programs are available so call to discuss. You may also make a payment at www.aesSuccess.org.

This is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume the debt is valid. If you notify this office in writing 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Sincerely,

Jeffrey S. Simendinger
SIMM Associates
866/572-5696

A convenience fee may be assessed based on the method of payment. Please reference
www.simmassociates.com/payment.htm

****Please See Reverse Side For Important Information****



3982-60-12

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Philomena Glowka
1922 Appaloosa Road
Warrington PA 18976

(b) County of Residence of First Listed Plaintiff Bucks

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

The Law Offices of Michael P. Forbes, PC
200 Eagle Road Suite 50
Wayne PA 19087

DEFENDANTS

Simm Associates, Inc.
800 Pencader Drive
Newark DE 19702

County of Residence of First Listed Defendant New Castle

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1692 FDCPA

Brief description of cause:

Debt Collection

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Philomena Glowka

CIVIL ACTION

v.

Simm Associates, Inc.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

2/11/16
Date

Michael P. Forbes
Attorney-at-law

Philomena Glowka
Attorney for

610 293-9399

610 293 9388

michael@mforbeslaw.com

Telephone

FAX Number

E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1922 Appaloosa Rd. Warrington PA 18976
Address of Defendant: 800 Pencaden Dr. Newark DE 19702
Place of Accident, Incident or Transaction: 1922 Appaloosa Rd. Warrington PA 18976
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) 15 USC 1692 FD CPA

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Michael P. Forbes, counsel of record do hereby certify:
☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
☒ Relief other than monetary damages is sought.

DATE: 2/11/16

MP Forbes
Attorney-at-Law

55767
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 2/11/16

MP Forbes
Attorney-at-Law

55767
Attorney I.D.#